

REMARKS

Claim Amendments

Claim 19, and claims 20 and 36 that depend from claim 19, are pending in this application.

Applicants have amended claim 19 to recite that the carrier, adjuvant or vehicle of the claimed composition is pharmaceutically acceptable for oral administration or administration by injection. Support for this claim amendment can be found, e.g., on page 46, lines 27-28 of the application as filed.

The Office Action

Applicants acknowledge the Examiner's withdrawal of the 35 U.S.C. §102(b) rejection of claims 19-20 and 36.

Rejections

35 U.S.C. §103(a) - Obviousness

Claims 19-20 and 36 continue to stand rejected under 35 U.S.C. §103(a) as being allegedly obvious over Beaver et al., U.S. Patent 2,965,575 ("the '575 patent"). According to the Examiner, the '575 patent refers to antiseptic compositions, which she contends are pharmaceutical compositions and have pharmaceutical activity. She points to the Title of the '575 patent ("Antiseptic Detergent Compositions") in supposed support for this allegation. The Examiner also argues that alcohol and water are well known pharmaceutically acceptable carriers.

Applicants traverse. The '575 patent refers to detergent compounds combined with detergent bases, not pharmaceutical compositions combined with pharmaceutically acceptable carriers. However, in the interest of advancing prosecution, applicants have amended claim 19, and claims 20 and 36 that depend therefrom, to recite that the carrier, adjuvant or vehicle is pharmaceutically acceptable for oral administration or administration by injection. Those claims are, thus, even more clearly patentable over the '575 patent.

The '575 patent refers to compounds that are used topically to beautify, cleanse or protect the skin by killing or controlling the growth of bacteria. See, e.g., column 4, lines 59-63. The compounds of the '575 patent are preferably admixed with a detergent base. Indeed, the preferred embodiment of the '575 patent incorporates the compounds in an alkali metal fatty acid soap, specifically an "Ivory" brand neutral high grade white toilet soap. See, column 3, lines 6-12.

Detergent bases and soaps are not administered orally or by injection. Further, there is absolutely no suggestion in the '575 patent that the compounds referred to therein could be used or formulated in any way for oral administration or administration by injection. The skilled worker, therefore, would have absolutely no motivation to administer an antiseptic or detergent composition of the '575 patent by any means other than topical administration. Certainly, the workers would have no motivation to administer the detergents orally or by injection. Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Appln. No. 10/671,967
Response dated December 8, 2006
Response to Office Action of June 12, 2006

Obviousness-Type Double Patenting – U.S. Patent 6,653,309

The Examiner has rejected claims 19, 20 and 36 for obviousness-type double patenting over claim 19 of U.S. Patent 6,653,309 (“the ‘309 patent”). The Examiner acknowledges that the conflicting claims of the instant application are not identical to claim 19 of the ‘309 patent. However, the Examiner alleges that claims 19, 20 and 36 are not patentably distinct from claim 19 of the ‘309 patent because the definition of X in the instant claims overlaps with the corresponding definition in the ‘309 patent and “it is well known to add additional ingredient to any composition to treat a disease”.

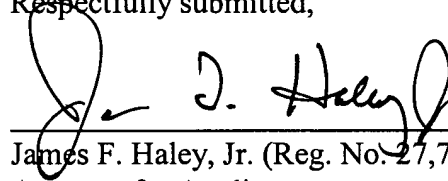
Applicants stand ready to file one or more terminal disclaimers, in compliance with 37 C.F.R. §1.321(c), to obviate the obviousness-type double patenting rejection upon allowance of the conflicting claims in this application.

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CONCLUSION

Applicants request that the Examiner consider the above remarks, withdraw the outstanding rejections, and allow the pending claims 19-20 and 36 to issue.

Respectfully submitted,



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